IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition 16094 of 2006

Date of decision: 11.10.2006.

Swatantarta Sainani Raja Ajit Singh Memorial Trust …Petitioner

Versus

State of Haryana and ors …Respondent

CORAM: HON'BLE MR JUSTICE S.S.NIJJAR.
HON'BLE MR JUSTICE S.S.SARON.

Present: Mr Paramjit Singh Bajwa, Advocate, for the petitioner.

The present petition under Articles 226/227 of the Constitution of India has been filed by Swatantarta Sainani Raja Ajit Singh Memorial Trust (Trust – for short) seeking directions against the respondents for immediately restraining them from further destroying the ancient and historical monument situated in the fort of Sardar Gurdit Singh Ladwa and Raja Ajit Singh, the last ruler of Ladwa Riasat. It is alleged that the Chief of Ladwa played an important role during the period between the later half of 18th Century till the mid of 19th Century. A mention has been made with respect to the family of Sardar Gurdit Singh Ladwa, the founder of Ladwa Riasat and his contribution. His subsequent successor – Raja Ajit Singh, it is stated constructed the fort which was confiscated by the British after the second Anglo-Sikh war. A Police Station was established in the fort which remained functional even after the independence. The Police Station has now been shifted out and the fort was lying vacant till recently. Protection is sought in respect of the said fort.

Learned counsel for the petitioner contends that the fort at Ladwa needs immediate protection as the State Government intends to set up a shopping complex therein. A reference has been made to Section 2 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (1958 Act – for short) and it is contended that the fort in question is an ancient monument. Even in terms of Section 2(a) of the Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964 (1964 Punjab Act – for short), it is stated that the fort in question is an ancient and historical monument.

We have given our thoughtful consideration to the matter.

The present petition has been filed in the nature of a public interest litigation by the Trust. The Trust though is stated to be a registered body. However, it has merely been stated that it has the motive of saving the last remains of the Ladwa Riasat in the shape of the fort at Ladwa. A resolution dated 25.7.2006 has been attached which is to the effect that a meeting of the members of the Trust "Freedom Fighter" Raja Ajit Singh Memorial Trust, Ladwa (registered No.5272), Kurukshetra was held and it was decided to file a suit and engage a counsel in the High Court "for restraining to abolish the historical building situated at Ladwa". It is further recorded that the historical building i.e. the fort of Freedom Fighter Ajit Singh Ladwa has now been converted by the Municipal Committee, Ladwa as Babu Dharam Chand Shopping Memorial Complex by demolition of the historical fort. The same is against the society. All members of the Trust, it is recorded, accept the above decision for the welfare of the Trust and all members have signed the resolution dated 25.7.2006.

In order to invoke the jurisdiction of this Court by way of PIL, the Hon'ble Supreme Court has laid down various guidelines. In ***Bhartiya Homeopathic College, Bharatpur v. Students' Council Homeopathy Medical College, Jaipur*** (1998)2 SCC 449 the Supreme Court considered a writ petition filed as Public Interest Litigation by a Students Union. It had been filed with a view to remove the hardship of students admitted in accordance with the State Act. A writ in the nature of Mandamus was sought in that case, to a college for permitting the students admitted in accordance with the State Act to appear in the University examination. The Supreme Court held that such a union must disclose: (i) whether it was authorized to file a litigation; (ii) if so by whom; (iii) whether it has sufficient funds to indulge in the litigation and (iv) the basis for alleging harm to public interest. Otherwise, it was observed that it should not be allowed lightly to litigate in the name of public interest to cause damage to others. The present case, in our opinion, would not fall under the aforesaid ingredients, as laid down by the Supreme Court.

Even otherwise, apart from the history and the contribution of the family in question, there is no material on record to show whether the fort in question is deemed to be an ancient monument in terms of Section 3 of the 1958 Act or has been declared an ancient monument under Section 4 of the 1958 Act. Besides, even in terms of the 1964 Punjab Act, it has not been shown as to by which provision, the fort in question would be covered. Mere general allegations have been made for the preservation of the fort without reference to any statutory provisions.

In the circumstances, we decline to entertain this petition in exercise of the extra-ordinary writ jurisdiction of this Court. However, we

leave it to the petitioner to pursue its remedies with the appropriate government or forum, in accordance with law.

(S.S.NIJJAR)
ACTING CHIEF JUSTICE

11.10.2006. (S.S.SARON)
ASR JUDGE

WHETHER FIT FOR INDEXING : YES/NO